

VZCZCXRO1539
RR RUEHPW
DE RUEHBUL #0249/01 0341002
ZNR UUUUU ZZH
R 031002Z FEB 09
FM AMEMBASSY KABUL
TO RUEHC/SECSTATE WASHDC 7115
INFO RUCNAFG/AFGHANISTAN COLLECTIVE

UNCLAS SECTION 01 OF 05 KABUL 000249

DEPARTMENT FOR SCA/FO, SCA/A, EUR/RPM
STATE PASS TO AID FOR ASIA/SCAA
NSC FOR WOOD
OSD FOR WILKES
CG CJTF-101 POLAD

SENSITIVE
SIPDIS

E.O. 12958: N/A

TAGS: [PHUM](#) [PGOV](#) [AF](#)

SUBJECT: Afghan Human Rights Report on Kuchi-Hazara Violence:
Government Inaction Could Lead to More Clashes

Summary

¶1. The Aghan Independent Commission on Human Rights' (AICHR) report on the Summer 2008 clashes between ethnic Hazarans and ethnic Pashtoon Kuchi nomads in Wardak Province concludes that, absent decisive government intervention to resolve this long running dispute, violence is likely to flare up again in the summer of 2009.

The report states that the 2008 clashes resulted in 24 Hazarans killed, 11 injured, over 6000 families displaced, and property heavily damaged due to the looting of houses, destruction of farmland, and the killing of animals. The report includes unconfirmed reports that the Kuchi suffered 30 killed and 42 injured (AICHR investigators were prohibited by Afghan security forces from visiting the Kuchi camps or speaking directly with Kuchi involved in the conflict). The report is critical of the Karzai government, noting that no action has been taken to resolve the Kuchi-Hazara dispute, despite increasingly violent clashes every year. The unwillingness or inability of the Afghan National Army (ANA) to effectively control the violence is also noted. Since the AICHR has not posted an English version of its report on its website, Embassy translation of the report is repeated here in its entirety, less an appendix listing the names of casualties and locations of destroyed property. (Note: while the report frequently refers to "settlers," it should be noted that the settlers in the areas discussed are predominantly ethnic Hazarans.) End Summary.

Translation of Report

¶2. Begin translation: Afghan Independent Commission on Human Rights' Report on dispute between Kuchi (Nomadic People) and locals in the Hesaee Awal Beshood district, Hesaee Dow Behsood district (first and second parts) and Dymirdad district of Maidan Wardak province during the year 1387Af (2008)

Introduction

Throughout the history Afghanistan, some of the Pashtoon tribes who hail from southern Afghanistan have been living nomadic life. They move from one area to another in different seasons of the year. They claim to own grazing land (pasture) and leisure sites in different parts of Afghanistan.

To utilize the pasture land, the Kuchi reached areas in central Afghanistan at the end of the 19th and beginning of the 20th centuries. Right from the beginning, the arrival of Kuchi in the central lands has been marked by violent clashes with locals. The Kuchi claim that, due to the lack of grazing land in the East, and the suitable climate of the central highlands for grazing cattle in spring and summer, previous governments have granted them permission to utilize the pasture in these areas. But, local inhabitants believe that it is the right of permanent dwellers to utilize this

pasture land. They say the decision of previous governments to grant the Kuchi the right to utilize the pasture was discriminatory, oppressive and politicized. On the other hand, irrigated land for seasonal cultivation in this area is limited and the people depend on animal husbandry to feed their families. To raise animals, locals depend on the limited natural pasture that exists in the area.

Therefore, the current dispute between Kuchis and natives in these areas has deep roots and a long precedent in the history of Afghanistan. Unfortunately, in different epochs of the history, rulers and various political circles used this quarrel to serve their political interests. In fact, both Kuchi and local settlers are the victims of this political gambling, which unfortunately has kept their relations tense. But, it should also be noted that some of the Kuchi families claim that they have legally purchased some land from local people and have the official and informal documents in hand proving their ownership. Apparently, locals have not disputed these claims.

Kuchi did not move to the Hazarajat (central) areas during the Jihad (resistance against the former Soviet Union) but returned to the pasture of the central Afghanistan during the Taliban rule. Although the dispute is not limited to the Beshood area, Behsood is considered the gate to most of the central land, and the area has witnessed heavy clashes between Kuchi and locals in recent years. In 1382 Af (2003) locals agreed that Kuchi could stay in the area for one year as their guest, but in 1383 (2004) a local was killed as a result of dispute in the area. In 1384 (2005) another local was killed. Although 1385 (2006) also saw clashes and disputes between the rivals, causing displacements and heavy material losses of the locals, no fatalities were reported. But in 1386 (2007), 11 local people were killed, and 1900 families were displaced. The Kuchi also claimed that one of their own was killed during that year.

Despite the fact that this dispute has erupted every year since the new government took office, and has claimed many lives, the Afghan government has yet to take effective steps to permanently solve the problem. That is why the tragedy was repeated this year as well. Article 14 of the constitution obliges the Afghan government to prepare and implement effective plans for the settlement of the Kuchi. But despite its legal obligation, the government of Afghanistan paid no attention to the repeated calls of the Afghanistan Independent Human Rights Commission (AIHRC) and the consequences of the disputes during recent years. Still, still the government has no plan for the fair settlement of the Kuchi. The dispute intensified in 2008, which inflicted heavy human and material losses. This report explains different aspects of this year's dispute:

Details of the dispute in 1387 (2008)

Fighting first erupted in the Hesaee Dowum district of Behsud on 26/3/1387 AF (15 June 2008) and on 17/4/1387 (07 July 2008) spread to the Hesaee Awal and Dymirdad districts. Unfortunately, right from the beginning, this war created human casualties and heavy material losses which continued up to early Asad (Late July). The fighting ended when the Kuchi left the area, obeying the decree of the President issued to this effect. The last group of Kuchi pulled back from "Fash" village of Dymirdad district on 12/5/1387 (2nd August 2008). During the clashes and afterward, several fact finding missions were sent by the Afghanistan Independent Human Rights Commission (AIHRC) to the said districts to examine the consequences of the fighting. Following is the main point of their findings:

-- At least 24 (6 people from Hesaee Awali Behsood district, 12 from Hessai Dowum Behsud district and 6 from Dymirdad district) local residents were killed during the fighting. A 14-year old girl, two students and two seventy year old persons were among those who lost their lives in the fighting. Also, three people (a woman, a girl and a man), all locals of Hesaee Awali Behsud lost their lives as a result of a traffic accident while on their way to immigrate to Kabul.

-- At least 11 people from Hesaee Awal and Hesaee Dowum districts were injured, including women and children.

-- In a meeting with the members of Afghanistan Independent Human Rights Commission (AIHRC) on 10/5/1387 (31 July 2008) in the Besti

village of Heswae Awal district, representative of the Kuchi claimed that 30 Kuchi were killed during the fighting, with an additional 42 injured. Commission delegates asked the Kuchi to prove their claims, but they could not present any proof. Also, no independent confirmation of the claim was available.

Displaced People

-- In two districts of Hesaee Awal and Hesaee Dowum, inhabitants of over 400 villages (230 villages from the Hesaee Awal Behsood and 170 villages of Hesaee Dowm Behsood) left their homes and migrated to other areas. Five to 30 families had been living in each of these districts. Also, in Dymirdad district, 1,300 families have been displaced. Totally, over 6000 families have been displaced in these three districts.

-- The displaced families live in miserable conditions. The AIHRC delegation saw families who had no food for one night. Also, the commission saw villages where no house was left undamaged; they were all burnt, or looted. The main problems faced by the displaced are: no shelter, no food, no fodder for animals, no firewood or materials for the winter, diseases of women and children, school closures and fear of insecurity.

-- Although government delegations to some extent assessed the damages in these three districts, the government has taken no action to help displaced people. Particularly, no assistance was extended to the displaced people of Hesaee Awal and Dymirdad districts. (Except for very little assistance which has been extended to the displaced of Kajab area).

Damages

-- Over 200 of the vacated houses located in Hessaee Awal and Hessaee Dowm districts have been seriously damaged. In these villages agricultural harvest has been wiped out, properties and home appliances have been looted, fire materials and animal fodders have been mostly burnt and in many places residential houses were set ablaze.

-- In three districts of Hessaee Awal, Hessaee Dowum and Dymirdad, 84 houses, including 420 rooms, 3 mosques, 9 shops, 3 cars (one police ranger and 3 private cars) were set on fire. It is worth mentioning that these figures only apply to those houses which were visited and photographed by the inspectors of the AIHRC. Many houses were not inspected and surely the numbers of burnt house are more than presented in this report.

-- During the fighting 35 high, middle and elementary schools had been closed and over 8392 students were deprived from attending their classes and their mid year exam. At least two schools had been set on fire and 4 more were seriously damaged.

-- As fighting started, 7 health clinics stopped their operation, depriving ten of thousands of people from health services.

-- Keeping in mind the intensity of damages such as heavy losses to farmland, looted houses and lost animals, the AIHRC does not have a clear account of all the losses.

Government Action

-- Even though the Afghan government sent several delegations to the area since the start of the dispute, they have not been effective in stopping the fighting. The most effective action by the government was a presidential decree on 31/4/1387 (21 July 2008) calling on Kuchi to leave the area for this year. As a result of the decree fighting died down temporarily.

-- Local governments of the three districts have taken no action to prevent the fighting or investigate the case. Local officials told AIHRC that the problem is too big for them to solve so they can not interfere.

-- The purpose of sending Afghan National Army (ANA) troops to Hesaee Awal and Hessaee Dowum districts was to create a ceasefire and protect a buffer line between warring factions in the war zone. ANA soldiers were deployed in the area on 17 June 2008, but could

not protect the buffer zone. Following the deployment of the ANA, a 15-day truce was agreed on 5 Saratan (25 June, 2008) as a result of mediation efforts by the first presidential delegation (Shahzada Masoud and Amanullah Zadran) and some local representatives. The ANA was tasked to install security post to protect the ceasefire, but the cease fire was violated in the afternoon of the same day (25 June). Also, fighting took place on 17/4/1387 (July 7, 2008) in Kharbid area of Hesaee Awali Behsood district, on 20/3/1387 (July 10, 2008) in Dahan Aoji in Hesaee Dowm Behsood district and on 26/3/1387 (July 16, 2008) in Bad Asiab area. Kuchi entered other parts of Hesaee Awal district as well. Consequently, fighting continued until the presidential decree was issued on 21 of July, 2008. The AIHRC delegation eye-witnessed two clashes in Hesaee Awal and Hesaee Dowum Behsud which occurred on 28 and 29 of Saratan (July 18 and 19, 2008). Surely, the killing of people in Hesaee Awal district happened after the deployment of ANA in the area. Therefore, keeping in view the performance of ANA units, it could be said that either ANA favored one side and deliberately did not stop the fighting, or completely ignored its responsibilities.

-- The Afghan National Police (ANP), since its deployment in the Mirhazar area on 27/3/1387 (July 16, 2008) kept the area secure until the fighting ended. To some extent, they achieved their targets. After the deployment of the ANP, there was no additional damages to people's houses and farmland. Eye witnesses from the area even said that on some occasions, police officers under the order of their superiors irrigated farmlands in areas under their control for the people's benefit. There is no comparison between the losses and damages between areas under the control of the ANP (From Auji to Mirhazar in Hesaee Dawm Behsood) and areas controlled by the ANA. Most of the damages were inflicted to villages of Hesaee Awal district which was under the control of the ANA.

-- Although the government sent a delegation to assess the losses and it seems that the assessment has been completed, no assistance and compensation was provided.

Conclusion

During the fighting this year, 24 people have been killed, 11 were injured, over 6000 families have been displaced, over 84 houses were set on fire and people suffered heavy material losses due to looting of their houses, losing animals, destruction of their farmlands and closure of their schools and health clinics. Also, Kuchi claimed that they lost 30 people, while 42 of them have been injured.

Lack of government attention to last year's dispute, has worsened the problem. As a result, the issue has become an ethnic dispute with possible serious consequences. In addition, this has further increased the sense of no confidence among the people about the government. No doubt, this widens the gap between people and government and consequently will seriously challenge the writ of the government in these areas. If there is no permanent solution to the dispute next year, the tension will be intensified and will have disastrous consequences on a national level. Continuation of fighting in the area will revive the culture of violence and warlordism in the area.

In this case, the rights of living, rights of ownership, rights of protection from forced immigration, right of access to education and health services, and rights of personal security of many citizens of Afghanistan have been violated. According to articles 6, 23, 24, 38, 40, 43, and 52 of the constitution of Afghanistan, and in accordance with other national and international conventions, the Afghan government has the obligation to protect the rights of Afghan citizens. But as the report indicates, the government has not taken timely and effective action to protect the human rights of its people.

Urgent and Short-term Suggestions

First - As indicated in the report, over 200 villages in two districts of Hesaee Awal and Hesaee Dowum have been seriously damaged. In several of these villages people's houses and fodder for their animals have been set on fire, food stuff (such as wheat and flour) had been destroyed, agricultural crops were devastated and the whole livelihood has been diminished. Dwellers of these villages who have slowly returned to their houses are in dire need of

assistance. Of course, any help to the returnees should be fundamental to enable them rebuild infrastructure for their livelihoods. Government, national and international humanitarian organization should provide such support to these displaced people as soon as possible so a human catastrophe can be avoided.

Second - The government of Afghanistan should assess the damages in all these areas fairly, and accurately evaluate and calculate the inflicted losses and take necessary measures for a fair compensation to the losses.

Third - The government of Afghanistan should conduct an accurate, comprehensive and neutral investigation about the behavior of Kuchi with locals, and assure that violators will face legal prosecution and losses to both sides will be compensated.

Fourth - In order to have a clear picture about the number of people killed in this dispute, and to know how they were killed, the government of Afghanistan should launch a comprehensive investigation and use forensic science to prove the claims and counterclaims of locals and Kuchi.

Fifth - For several years, many Afghan citizens have lost their lives due to this dispute, but the government has not taken any action to prosecute those behind the killings. This has further strengthened the culture of impunity and undermined the rule of law. Therefore, the government of Afghanistan should put an end to this impunity culture and bring to justice those who are behind the killing and other crimes.

Sixth - The government of Afghanistan should probe charges leveled against the deployed units of the ANA in the area who reportedly failed to bring security to the area and protect the ceasefire, and inform the public about its finding.

Long-Term suggestions

First - The fundamental and permanent solution of this problem lies in implementation of Article 14 of the Constitution of Afghanistan, which obliges the government of Afghanistan to plan and execute effective programs for the development of agriculture and livestock, improvement of economic conditions and livelihood of farmers and cattle raisers and for the resettlement of Kuchies. To eradicate this problem, to prevent the culture of warlords and ethnic tension, to avoid creation of a gap between government and people, to end the culture of impunity, to strengthen rule of law and finally to prevent gross human rights violations, it is once again recommended to the government of Afghanistan to implement article 14 of the Constitution. By doing so, both Kuchi and locals will avail their due human and citizen rights.

Second - All official and unofficial documents of Kuchi and locals which can prove private ownership should be referred to courts, so they could be examined, and consequently the real owners of the land who have legal documents in hand can get his/her due humanitarian right of owning the land.

Third - In order to permanently solve this problem and prevent violent clashes among Afghan tribes in the future, particularly between Kuchi and locals, the government should start new projects of distributing barren government lands and settling landless farmers and Kuchi there, so they can get out of the miserable life and, like the rest of the citizens, their children can have access to education.

Fourth - To reduce 100% dependence of the people of rural areas on the present level of pastures and wooded areas, the government must create new job in other sectors, parallel to the agriculture sector in all parts of the country, particularly in the mountainous and isolated areas which are most affected by social and economic poverty. The social and economic development projects for the future should be undertaken as part of its Millennium Development Goals and in accordance with the standards enshrined in Afghanistan Compact to eradicate poverty and joblessness.

Fifth - Keeping in mind the effective role of the international community and the United Nation in securing peace, stability and development of Afghanistan, it is recommended that the international

community strongly and effectively support the government of Afghanistan to fulfill its obligations towards the human rights of its citizens and in implementing the long and short terms suggestion offered in this report. End translation of report.

WOOD